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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,558	01/16/2004	Daniel B. McGoldrick	84,313	5969

38092 7590 07/19/2005

OFFICE OF COUNSEL, CODE 004
NAVAL SURFACE WARFARE CENTER, CARDEROCK DIVISION
9500 MACARTHUR BLVD.
WEST BETHESDA, MD 20817

EXAMINER

TADESSE, YEWEBDAR T

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 07/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/758,558

Applicant(s)

MCGOLDRICK, DANIEL B.

Examiner

Yewebdar T. Tadesse

Art Unit

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) 6-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. Claim 5 is objected to because of the following informalities: in claim 5, line 2 (see claims in the amendment filed 05/02/2005) the word "de-coating" is misspelled. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 3-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Goff (US 3,863,393).

As to claim 1, Goff discloses (see Fig 2) an apparatus for treatment of target surface by coating thereof applied from an ejection device (a spray head, see column 1, lines 12-16), comprising guidance means (frame means 12) exclusively supported on the target surface (vertically disposed surface, the ship hull or tank) for establishing linear path of movement in spaced relation to the target surface; support means (item 16 a platform a paint sprayer, see column 7, lines 66-67) on which the ejection device is positioned for ejection of the coating therefrom; and selectively controlled mounting means (casters 36, see column 8, lines 20-30) for positioning of the support means (platform) at different location along the linear paths movement on the guidance means

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(12) from which the ejection of the coating onto the target surface (vertically disposed surface, the ship hull or tank) is effected from the ejection device (a spray head) during the treatment of the target surface.

As to claim 3, Goff further discloses (see Fig 2) the guidance means (12) including horizontal track rails (frame member 14) on the target and a vertical guide means (vertical support member 24) slidably received in the track rails (14) for displacement of the support means (item 16) along the linear paths of movement to different location.

As to claim 4, Estebanez et al (see Figs 3) further discloses the support means (16) includes a support rack (clamp 38) mounted by the vertical guide means (item 24) in perpendicular relation to the target surface.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goff (US 3,863,393) as applied to claim 1 and further in view of Estebanez (US 4,048,956).

Goff discloses the target surface being a ship hull (see column 1, lines 36-42) and a paint sprayer (see column 7, lines 66-67); but an applicator ejecting a liquid paint is not specifically taught in Goff (see column 8, lines 33 for coating material with fumes, most likely being a liquid paint). However, it is well known in the art to spray a liquid paint in coating a ship hull or any surfaces, such as shown by Estebanez et al (see column 1, lines 10-20). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use an applicator applying liquid in Goff to uniformly or easily apply the coating material.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goff (US 3,863,393) as applied to claim 1 and further in view of Briese (US 2,543,348). Goff does not disclose the treatment of the target surface involving a de-coating – by removing the paint from the target. However, it is well known in the art to de-coat the target substrate by removing the paint; for instance Briese discloses (see Fig 3) a scaling gun (82) used for de-coating the sides of ships. It would have been obvious to one of ordinary skill in the art at the time the invention was made to de-coat the surface of the target or to mount a de-coating device in Goff to clean the surface, for instance in preparation for the application of paint.

Response to Arguments

8. Applicant's arguments with respect to claims 1-5 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yewebdar T. Tadesse whose telephone number is (571) 272-1238. The examiner can normally be reached on Monday-Friday 8:00 AM-4:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Fiorilla can be reached on (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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CA 7-02
CHRIS FIORILLA
SUPERVISORY PATENT EXAMINER
AU 1734